IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10575 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GHANSHYAMBHAI CHHAGANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR RM CHHAYA for Petitioner

MR UR BHATT, AGP for Respondents

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 23/04/2001

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties. Rule. Mr. U.R. Bhatt, learned AGP waives service of rule for the respondents.

2. On a joint request of learned counsel for the respective parties, the matter is taken up for final

hearing today.

3. As a result of the hearing and discussion it is found that the impugned order at Annexure-B to the petition whereby the petitioner's application for renewal of the licence under the Arms Act has been rejected, is not only based on incorrect facts, but is also based on irrelevant considerations.

4. So far as the first reason for rejecting the application is concerned, it is obvious that the earlier licence expired on 31st December 1982, and could not be renewed because the very same license had been suspended with effect from March 1982. Moreover, the Firearm in question was in custody of the police in view of the Sessions Case. These facts have no relevance in June 1998 when the petitioner's application came to be rejected.

5. There is no dispute that the firearm in question was taken into the custody of the police and ultimately became part of the muddamal in the case pending before the Sessions Court viz. Sessions Case No.137/82. It is pertinent to note that in the said Sessions case, although the applicant was one of the accused, there was no charge framed against him in respect of any offence under the Arms Act. Thus, there is no question of any conviction being recorded against him under the Arms Act.

6. While the applicant was convicted in the said Sessions Case under section 307 of IPC, that by itself is no reason to deprive the petitioner of a right to hold a license which, to put it in other language, a right to defend himself by holding a firearm under the terms and conditions of the license which may be issued to him under the Arms Act.

7. In the premises aforesaid, the impugned order at Anenxure-B is quashed and set aside and the matter is remanded back to the respondent no.2 herein for deciding the petitioner's application afresh, on merits and in accordance with law and in the light of the observations made herein. Rule is accordingly made absolute with no order as to costs.

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